



**CITY OF FREMONT**

APR 30 2010

**COMMUNITY DEVELOPMENT**

**VIA EMAIL, FACSIMILE & U.S. MAIL**

April 29, 2010

Keith Anderson  
Project Manager  
**City of Fremont**  
39550 Liberty Street – PO Box 5006  
Fremont, CA 94537  
Facsimile: (510) 494-4751

Re: Bid Protest/Appeal - Fire Station #3  
Project No. PWC 8552B

Dear Mr. Anderson

This letter serves as Calstate Construction Inc.'s ("Calstate") bid protest as to River View Construction, Inc. ("River View") and S&H Construction, Inc. ("S&H"), the respective low bidders for the above-referenced contract. Calstate protest the bids as nonresponsive and directs the City of Fremont to the details set forth below.

**I. River View or S&H lack capacity to perform General Engineering work**

Under California law, a bidder is responsible if it can perform the contract as promised. Thus, the concept of responsibility focuses on the contractor's trustworthiness, quality, fitness and capacity to satisfactorily perform. See City of Inglewood-Los Angeles Civic Center Auth. v. Superior Court, 7 Cal. 3d 861 (1972). Here, River View and S&H lack capacity to perform the general engineering required in the contract. Neither contractor holds a class "A" license nor can they properly self-perform this work. Reference Business & Professions Code Division 3, Chapter 9 "Contractors", Article 4 "Classifications". This indicates that a "B" License classification allows the contracting business in connection with any "structure" built. Whereas the "A" license classification allows contracting business in connection with fixed works requiring specialized engineering knowledge and skill, including the following divisions; irrigation, drainage, water supply, streets and roads, sewers and sewage, parks, playgrounds and other recreational works, land leveling and earthmoving, excavating,



grading, trenching, paving and surfacing work and cement and concrete works in connection with the above mentioned fixed works.

Thus, unlike a specialty classification such as electrical or plumbing, the general engineering license is a separate and distinct classification of which a B license cannot self perform.

**I. S&H lacks proper bonding capacity**

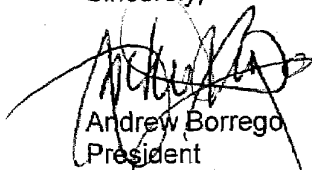
Section 00101 of the Specifications requires that all responsive bidders provide a "Statement of Responsibility" indicating evidence of proper bonding capacity for the project. Section 3 contractor is to provide information of current work and bonding capacity. Based on the information provided, if awarded S&H will exceed their allowed bonding capacity.

**III. S&H listed subcontractor is not licensed**

In accordance with Public Contract Code section 4100 "Subcontracting Act" and the general conditions of this project, contractors as well as subcontractors are to be properly licensed in the scope of work to be performed. S&H listed a company by the name of "General Engineering Contractors" that does not match the licensed listed. The license that matches the name indicated is 431930 and has been expired since 1984.

For the reasons set forth above, Calstate respectfully requests that the City of Fremont reject the bids of River View and S&H as nonresponsive. The above noted deficiencies unfairly affect the price of the bids and give these respective bidders an advantage not allowed other bidders. The City of Fremont must not overlook the basic rules of competitive bidding and conformance and must therefore reject the bids of River View and S&H. Calstate is the lowest responsible and responsive bidder and an award to Calstate is proper.

Sincerely,

  
Andrew Borrego  
President

**Calstate Construction, Inc.**



Referenced Information:

## **B - General Building Contractor**

### **Business & Professions Code**

#### **Division 3, Chapter 9. Contractors, Article 4. Classifications**

**7057. (a)** A general building contractor is a contractor whose principal contracting business is in connection with any structure built, being built, or to be built, for the support, shelter, and enclosure of persons, animals, chattels, or movable property of any kind, requiring in its construction the use of at least two unrelated building trades or crafts, or to do or superintend the whole or any part thereof.

This does not include anyone who merely furnishes materials or supplies under Section 7045 without fabricating them into, or consuming them in the performance of the work of the general building contractor.

**(b)** A general building contractor may take a prime contract or a subcontract for a framing or carpentry project. However, a general building contractor shall not take a prime contract for any project involving trades other than framing or carpentry unless the prime contract requires at least two unrelated building trades or crafts other than framing or carpentry, or unless the general building contractor holds the appropriate license classification or subcontracts with an appropriately licensed specialty

contractor to perform the work. A general building contractor shall not take a subcontract involving trades other than framing or carpentry, unless the subcontract requires at least two unrelated trades or crafts other than framing or carpentry, or unless the general building contractor holds the appropriate license classification. The general building contractor may not count framing or carpentry in calculating the two unrelated trades necessary in order for the general building contractor to be able to take a prime contract or subcontract for a project involving other trades.

**(c)** No general building contractor shall contract for any project that includes the "C-16" Fire Protection classification as provided for in Section 7026.12 or the "C-57" Well Drilling classification as provided for in Section 13750.5 of the Water Code, unless the general building contractor holds the specialty license, or subcontracts with the appropriately licensed specialty contractor.



## **A - General Engineering Contractor**

### **Business & Professions Code**


#### **Division 3, Chapter 9. Contractors, Article 4. Classifications**

**7056.** A general engineering contractor is a contractor whose principal contracting business is in connection with fixed works requiring specialized engineering knowledge and skill, including the following divisions or subjects: irrigation, drainage, water power, water supply, flood control, inland waterways, harbors, docks and wharves, shipyards and ports, dams and hydroelectric projects, levees, river control and reclamation works, railroads, highways, streets and roads, tunnels, airports and airways, sewers and sewage disposal plants and systems, waste reduction plants, bridges, overpasses, underpasses and other similar works, pipelines and other systems for the transmission of petroleum and other liquid or gaseous substances, parks, playgrounds and other recreational works, refineries, chemical plants and similar industrial plants requiring specialized engineering knowledge and skill, powerhouses, power plants and other utility plants and installations, mines and metallurgical plants, land leveling and earthmoving projects, excavating, grading, trenching, paving and surfacing work and cement and concrete works in connection with the above mentioned fixed works

**License printout from the Contractors State License Board for  
"General Engineering Contractors"**

## Department of Consumer Affairs Contractors State License Board

### Contractor's License Detail - License # 431930

 **DISCLAIMER:** A license status check provides information taken from the CSLB license database. Before relying on this information, you should be aware of the following limitations.

CSLB complaint disclosure is restricted by law (B&P 7124.6). If this entity is subject to public complaint disclosure, a link for complaint disclosure will appear below. Click on the link or button to obtain complaint and/or legal action information.

Per B&P 7071.17, only construction related civil judgments reported to the CSLB are disclosed.

Arbitrations are not listed unless the contractor fails to comply with the terms of the arbitration.

Due to workload, there may be relevant information that has not yet been entered onto the Board's license database.

License Number:	431930	Extract Date: 04/29/2010				
Business Information:	GENERAL ENGINEERING CONTRACTORS INC 1267 GREENFIELD DR #A EL CAJON, CA 92021					
Entity:	Corporation					
Issue Date:	12/02/1982					
Expire Date:	12/31/1984					
License Status:	This license is expired and not able to contract at this time.					
Classifications:	<table><tr><td>CLASS</td><td>DESCRIPTION</td></tr><tr><td>A</td><td>GENERAL ENGINEERING CONTRACTOR</td></tr></table>		CLASS	DESCRIPTION	A	GENERAL ENGINEERING CONTRACTOR
CLASS	DESCRIPTION					
A	GENERAL ENGINEERING CONTRACTOR					
Bonding:	CONTRACTOR'S BOND					
	This license filed Contractor's Bond number 5003305 in the amount of \$5,000 with the bonding company					
	AMWEST SURETY INSURANCE COMPANY.					
	Effective Date: 11/15/1982					
	Cancellation Date: 12/28/1983					
	BOND OF QUALIFYING INDIVIDUAL					
	1. The Responsible Managing Officer (RMO) RAYMOND LEHI DENDY certified that he/she owns 10 percent or more of the voting stock/equity of the corporation. A bond of qualifying individual is not required.					
	Effective Date: 12/02/1982					
Workers' Compensation:	There was no workers comp information found for this license.					

Personnel List